

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CLIFTON D. DAWSON,

Petitioner,

v.

STATE OF NEVADA, et al.,

Respondents.

Case No. 2:20-cv-02265-KJD-VCF

ORDER

Clifton D. Dawson, a pretrial detainee, has submitted a *pro se* habeas corpus petition pursuant to 28 U.S.C. § 2241 (ECF No. 1-1). His application to proceed in forma pauperis is granted. The court has reviewed the petition, and it will be dismissed without prejudice because Dawson has not presented his claims to the highest state court.

A federal court will not grant a state prisoner's petition for habeas relief until the prisoner has exhausted his available state remedies for all claims raised. *Rose v. Lundy*, 455 U.S. 509 (1982); 28 U.S.C. § 2254(b). A petitioner must give the state courts a fair opportunity to act on each of his claims before he presents those claims in a federal habeas petition. *O'Sullivan v. Boerckel*, 526 U.S. 838, 844 (1999); *see also Duncan v. Henry*, 513 U.S. 364, 365 (1995). A claim remains unexhausted until the petitioner has given the highest available state court the opportunity to consider the claim through direct appeal or state collateral review proceedings. *See Casey v. Moore*, 386 F.3d 896, 916 (9th Cir. 2004); *Garrison v. McCarthy*, 653 F.2d 374, 376 (9th Cir. 1981).

1 Here, petitioner, who is represented by the public defender in his state criminal
2 proceedings, states on the face of his petition that he has not raised his claim that
3 prosecutors are withholding exculpatory evidence in violation of *Brady v. Maryland*, 373
4 U.S. 83 (1963), to the state courts. The petition, therefore, is unexhausted.

5 Accordingly, this federal petition is dismissed without prejudice to petitioner filing
6 a new federal habeas petition, in a new case with a new case number and a new,
7 completed application to proceed *in forma pauperis* with the required financial
8 information or the \$5.00 filing fee.

9 **IT IS THEREFORE ORDERED** that petitioner's application to proceed in forma
10 pauperis (ECF No. 1) is **GRANTED**.

11 **IT IS FURTHER ORDERED** that the Clerk detach, file, and **ELECTRONICALLY**
12 **SERVE** the petition (ECF No. 1-1) on the respondents, for informational purposes only.

13 **IT IS FURTHER ORDERED** that the Clerk add Aaron D. Ford, Nevada Attorney
14 General, as counsel for respondents and provide respondents an electronic copy of all
15 items previously filed in this case by regenerating the Notice of Electronic Filing to the
16 office of the AG only.

17 **IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice as
18 set forth in this order.

19 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

20 **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and
21 close this case.

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23 DATED: 28 January 2021.



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25 KENT J. DAWSON
26 UNITED STATES DISTRICT JUDGE
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